

MONTANA BOARD OF PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR
OUTDOOR PROGRAMS
Full Board Meeting
Department of Labor & Industry
301 S. Park Avenue, Helena, MT
Basement Conference Room & by Conference Call
March 18, 2010
9:20am-1:30pm
Minutes

CALL TO ORDER: John Santa called the meeting to order at 9:20am.

Members Present by phone:

John Santa
Tim Callahan
Penny James
Mary Alexine

Members Present in Helena.

Darcie Kelly

Staff Present:

Jean Branscum
Cyndi Breen
Colleen White

Others Present:

Mickey Manning
Barbi Flanders
Carl Baisden
Brad Dugdale
Gay Miller

AGENDA ITEM #1

Review of Agenda & approval.

Motion: Mr. Callahan moved to approve the agenda as written.

Second: Ms. Alexine

Discussion: None

Vote: Unanimous

Motion carried

PUBLIC COMMENT STATEMENT:

In accordance with 2-3-103(1), MCA, the Board will hold a public comment period. Please note that Open Forum is the public's opportunity to address the Board on any topic that is not already on the agenda for this meeting. While the Board cannot take action on the issues presented, the Board will listen to comments and may ask the issue be placed on a subsequent agenda for possible action by the Board. The Chairperson of the Board will determine the amount of time allotted for public comment.

AGENDA ITEM #2

Review and approval of minutes for March 2, 2010.

Motion: Mr. Callahan moved, on the recommendation for Board Counsel, to summarize agenda item # 3 on fingerprinting and background checks rather than attach the memo to the minutes and to correct the spelling of Ms. Ali Bovingdon and Ms. Pam Bucy.

Second: Ms. Alexine

Discussion: None

Vote: Unanimous

Motion carried

AGENDA ITEM #3

Budget report

Staff reported that at the current rate the Board is projected to spend 53% more than budgeted for this fiscal year. This fiscal year is a base year which is to the Board's advantage as it will support an increase in building the budget for the next biennium.

Motion: Mr. Santa moved to approve the budget information as presented and that the next agenda include the review of and motion for a new fee structure in preparation for fiscal year 2011 and 2012. A new fee structure will require adoption by rule. He asked that staff prepare budget scenario based on three formulas:

- use of the current cost structure using a base fee charge of \$500, average daily census, and 4 student population categories,

- use of the current cost structure using a base fee charge of \$1000, average daily census, and 4 student population categories,

- a cost structure based on average daily census only.

Second: Mr. Callahan

Discussion: None

Vote: Unanimous

Motion carried

AGENDA ITEM # 4

Unlicensed Practice – Dancing Moon Ranch 10:00 am

Motion: Mr. Callahan moved to dismiss the case of unlicensed practice based on ARM 24.181.803. DEFINITIONS-RESIDENTIAL PROGRAMS (1) The following definitions apply only to residential programs. "Residential program" means a 24-hour group living environment for four or more program participants unrelated to the owner or provider.

This facility has housed 3 students since 2006 and has removed the materials from the website indicating 6 students.

Second: Ms. Alexine

Discussion: None

Vote: Unanimous

Motion carried

Motion: Ms. James moved that ARM 24 181 803 DEFINITIONS-RESIDENTIAL PROGRAMS, be added to the next Board agenda for consideration of a rule change. The Board shall consider the elimination of the minimum requirement of 4 students for licensed programs.

Second: Darcie Kellie

Discussion: None

Vote: Unanimous

Motion carried

AGENDA ITEM # 5

Fingerprint & background check process update with Board action

Motion: Statute requires a federal fingerprint and background check. Mr. Santa moved that the Board encourage programs to carry out the process through the Department of Justice with a copy of the results sent to the Board office. In situations where the FBI check did not include a Montana report, a name based check must be completed and submitted to the Board office.

Second: Ms. Alexine

Discussion: None

Vote: Unanimous

Motion carried

Neither statute nor administrative rule address the age of acceptable finger print and back ground checks that are submitted to the Board. Currently the Board office is in receipt of reports dating back as far as 1993.

Motion: Ms. James moved that an acceptable time frame for receipt of fingerprint and background checks be added to the next Board agenda and rule package.

Second: Mr. Santa

Discussion: None

Vote: Unanimous

Motion carried

AGENDA ITEM # 6

Licensure of Facilities

- Board delegation to staff for issuance of licenses for current applicants.

Motion: Johns Santa moved to delegate authority to staff to issue full licensure to programs upon receipt of the required documentation and evidence of a successful onsite visit or receipt of documentation from Joint Commission or NIPSA accreditation. In addition, staff shall provide an application summary during the next Board meeting for each school that receives full licensure.

Second: Ms. Kelly

Discussion: None

Vote: Unanimous

Motion carried

- Primary source verification and insurance policies for Programs - FYI
Staff reports that new programs state that they struggle with securing proper insurance for their facility without some form of licensure from the Board. The Board shall maintain its current enforcement of statute and rule that require adequate insurance prior to the issuance of either provisional or full licensure.

- New applications and provisional licensure, combined fees.

Motion: Ms. Alexine moved that the issue of fees for new applications and original licensure fees be added to the next rule package and board agenda.

Second: Ms. Kelly

Discussion: None

Vote: Unanimous
Motion carried

AGENDA ITEM # 7

Legislative Wish List

-37-48-102(3) & (8)

-37.48.103(1)

-37.48.107

-37-48-113(3)

-37-48-118(1)

Staff reported that management is asking for more specific legislative language requests.

-Language for "provisional licensure" & "registration".

Motion: Mr. Santa moved to add the repeal of 37.48.107 to the legislative wish list. The action would eliminate provisional licensure and registration from statute.

Second: Ms. Kelly

Discussion:

Is there a way to keep provisional license status and to have it apply to programs that are waiting on insurance coverage, a site visit, or fingerprint and background check reports? Staff clarified that statute clearly defines the population who could be provisionally licensed.

Could programs be "conditionally approved for licensure" while they are waiting to get insurance? Programs would not be open for business during this waiting period.

The finger print and back ground checks would be required before conditional approval was given.

MCA 37.48.115(3)(b) dictates the inspection process for all new programs, site visits must be conducted before the program opens.

The agenda item includes the word "registration" which is included in MCA 37.48.103.

Amended motion: Mr. Santa amended his motion to include striking the words "mandatory registration and" from MCA 37.48.103(3).

Second: Ms. Kelly

Vote: Unanimous

Motion carried

-Direct access definition

37-48-102. Definitions. As used in this part, the following definitions apply:

(3) "Direct access" means that an individual has or will likely have person-to-person spoken contact or physical contact with or access to the program participant.

(8) "Worker affiliated with the program" means any owner, partner, member, employee, or contractor providing professional or occupational services to a program.

Though this section provides definitions it's difficult to discern who must have fingerprints and background checks.

Board Counsel discussed that the Board may remedy the ambiguity in this section of definitions with a rule change rather than a legislative change. A rule could require that facilities enact a policy or somehow limit student access to contracted service providers, any non employee, workers, or volunteers by requiring that all are "supervised" while on

the campus. This would avoid specifying who should be finger printed. At no time shall any individual have direct, unsupervised access to student participants.

"direct, unsupervised contact."

The Board took no action on this agenda item.

-37-48-113(3). Rules program criteria application evaluations.

The Board shall adopt rules by October 1, 2008, to begin licensing the programs, and the programs have 30 days from the effective date to apply for a license once the rules are effective.

Motion: Mr. Santa motioned to add striking 37.48.113(3) to the legislative wish list.

Second: Ms. Alexine

Vote: Unanimous

Motion carried

37-48-118. Penalty for failure to obtain license -- notice of violation. (1) It is unlawful to operate a program without a license or a provisional license.

Motion: Mr. Santa motioned to add striking 37-48-118 (1), "or a provisional license" to the legislative wish list.

Second: Ms. James

Vote: Unanimous

Motion carried

AGENDA ITEM # 8

Site visit check sheet and review with inspectors

Inspectors Amber Carpenter and Bill Wood were introduced to the Board.

In advance of today's meeting staff had reviewed the site visit check sheet and site visit protocol with the inspectors. The two documents serve as suggested guidelines for site visits as opposed to Department or Board policy. Changes have been made by staff to the original documents and the documents with the recommended changes are included in the board book.

Site visit protocol memo

-Item # 6. Is it the desire of the Board to have the sessions between inspectors and students recorded? No

-It is the expectation that new programs will have an inspection prior to opening for business and that within one year, a follow up inspection will occur.

-Site survey tool and the application check list

Motion: Mr. Santa motioned that the inspectors be afforded the luxury of developing their own user friendly forms in conducting their investigation.

Second: Ms. James

Vote: Unanimous

Motion carried

AGENDA ITEM # 9

Adobe Connect future board meeting access

FYI. Board staff informed the Board of the Department's intention to move towards hosting Board meeting via this media method.

AGENDA ITEM # 10

Next meeting

May 11, 2010 – 9:00 am-completion, 2-hours maximum

June 3, 2010 – 9:00am-completion, 2-hours maximum

ADJOURNMENT

Motion: Mr. Santa motioned to adjourn the meeting at 12:39 pm.

Second: Ms. Kelly

Vote: Unanimous

Motion carried